

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.19782 of 2014**

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- 1.1. Rekha Devi Wife of Late Rajendra Mandal @ Jhapsi Madal, Resident of village- Bajitpur, P.S. Manigachhi, Dist. Darbhanga.
- 1.2. Santosh Kumar Mandal, Son of Late Rajendra Mandal @ Jhapsi Madal, Resident of village- Bajitpur, P.S. Manigachhi, Dist. Darbhanga.
- 1.3. Ram Kumar Mandal, Son of Rajendra Mandal @ Jhapsi Madal, Resident of village- Bajitpur, P.S. Manigachhi, Dist. Darbhanga.
- 1.4. Smt. Savitri Devi, wife of Lalbabu Pradhan, Daughter of Rajendra Mandal @ Jhapsi Madal, Vill. Chanauranganj, P.S. Jhanjharpur, District Madhubani.
- 1.5. Rukmani Devi, Wife of Amit Karat, Daughter of Rajendra Mandal @ Jhapsi Madal, Mohalla Bata Chowk, P.O., P.S., Dist Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Land Reforms, Patna.
2. The Collector, Darbhanga.
3. The Addl. Collector, Darbhanga.
4. The Sub Divisional Officer, Darbhanga.
5. The Deputy Collector Land Reforms, Darbhanga.
6. The Anchal Adhikari, Manigachhi, District Darbhanga.
7. Jamun Bhandari, S/o Late Prabhu Bhandari, Resident of Village and Post Bajitpur, P.S. and Anchal Manigachhi, District Darbhanga.
8. Bishwanath Mahtha, S/o Late Ram Khelawan Mahtha, Resident of Village and Post Bajitpur, P.S. and Anchal Manigachhi, District Darbhanga.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Amarendra Naraiyan, Advocate<br>Mr. Deepak Kumar, Advocate |
| For the Respondent/s | : | Mr. Mahendra Prasad Verma, AC to SC-20                         |

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**

**ORAL JUDGMENT**

**Date : 25-07-2023**

Heard learned counsel for the petitioners and  
learned A.C. to S.C.-20 for the State.

2. The present writ petition has been filed for  
setting aside the order dated 26.11.2013 passed by Additional

Collector, Darbhanga as well as the entire proceeding of *Bandobasti Raddikaran* Case No. 1/13-14 by which the settlement of 2 katha land of Khesra No. 1356 under Mouza-Bajitpur, Anchal-Manigachhi, District- Darbhanga vide Settlement Case No. 4/95-96 has been cancelled without any information/notice to late Rajendra Mandal in complete arbitrary act, improper manner and in gross violation of natural justice. Further prayer for quashing the order dated 31.07.2014 passed by Deputy Collector Land Reforms, Sadar Darbhanga in Land Dispute Case No. 356/13-14 where prayer of late Rajendra Mandal for evicting respondent no. 7 and 8 from the illegal encroachment of portion on the land of late Rajendra Mandal in plot no.1356 was dropped on the ground of cancellation of settlement.

3. Learned counsel for the petitioners submits that the land in dispute has been allotted in favour of late Rajendra Mandal (husband of petitioner no.1.1 and father of petitioner no.1.2 to 1.5) by virtue of Land Settlement Case No. 4/95-96 by which 2 katha of land which is subject matter of the dispute of the present writ petition has been allotted in favour of late Rajendra Mandal vide order dated 07.08.2001/28.08.2001 passed in Land Settlement Case No. 4/95-96 by the order passed

by Sub-Divisional Officer, Darbhanga (Annexure-3) on the basis of which the settlement Jamabandi No. 1495 for 2 katha of land has been created in the name of late Rajendra Mandal and he started paying the rent to the State Government. Counsel further submits that late Rajendra Mandal has continuously paid his rent for the said settled land up-to the year 2012-14 and rent receipt was granted to him (Annexure-4). Counsel further submits that late Rajendra Mandal was continuously coming in the possession of the land then respondent nos. 7 and 8 started encroaching the said land which protection from the said encroachment, late Rajendra Mandal filed a case under Bihar Land Dispute Resolution Act being Land Dispute Resolution Case No. 356 of 2013 in which the stand of Government has come that the settlement of 2 katha of land has been cancelled vide order dated 26.11.2013 and on this ground his BLDR Case was dropped. Counsel further submits that late Rajendra Mandal has no knowledge prior to cancellation of settlement of his land which was allotted to him but after order passed by the Bihar Land Tribunal he has started searching and obtained the certified copy of the entire order sheet of *Bandobasti Raddikaran* Case No. 1 of 2013-14 upon which he became aware that entire proceeding for cancellation of the land has

been initiated vide order dated 26.11.2013. Counsel specifically submits that there is a gross violation of natural justice in cancellation of his allotted plot and as such the order of cancellation of the allotted plot in favour late Rajendra Mandal is absolutely bad in law and fit to be set aside.

4. On the other hand, learned counsel for the State opposes the prayer of petitioners and submits that it is wrong to state that there is a violation of the natural justice as in the counter affidavit he has annexed as Annexure-B and Annexure-C series which shows that there is a proposal for cancellation of jamabandi of late Rajendra Mandal and in this regard notices were issued and in the back of Annexure-C (page-25 of the counter affidavit), the process server has submitted that late Rajendra Mandal was sitting on the shop but after reading he has refused to accept the notice, as such it was treated as valid.

5. Upon going through the records of the parties and considering the hearing, it transpires to this Court that on 04.11.2013 the notice was directed to be sent for service which was alleged to be served by way of refusal on 07.11.2013 and thereafter final order has been passed on 26.11.2013.

6. From the service report, it transpires that the said notice was prepared at the hand of Additional Collector,

Darbhanga on 04.11.2013. Process server has signed on 07.11.2013 but the chowkidar who is the witness of the said notice has put his signature on 03.10.2013.

7. From perusal of the entire order sheet of *Bandobasti Raddikaran* Case No. 1/13-14, it transpires that at no stage either at the stage of Circle Officer or at the stage of Deputy Collector Land Reforms, any notice was either issued or served. But at the stage of Additional Collector, Darbhanga notice issued but not properly served. Therefore, this Court is of the view that the process adopted by the Officers, Circle Officer, Manigachhi and Deputy Collector Land Reforms, Darbhanga and the Additional Collector, Darbhanga at the time of passing order in *Bandobasti Raddikaran* Case No. 1/13-14 had committed gross negligence and passed order for cancellation of the petitioners' land in gross violation of Natural Justice, which requires interference by this Court and therefore, due to the reason mentioned above, this Court is hereby set aside the order and entire proceeding relating to *Bandobasti Raddikaran* Case No. 1/13-14. This Court is not inclined to interfere in order passed in BLDR Act but the order passed under BLDR Act shall not create any bar to the petitioners for raising grievances under this law as and when the occasion shall arise in future.

8. With the aforesaid direction, the present writ  
petition is disposed off.

**(Dr. Anshuman, J.)**

ravishankar/-

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